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OFFICIAL RESPONSE OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT  
OF FORESTRY AND FIRE PROTECTION  
TO SIGNIFICANT ENVIRONMENTAL POINTS RAISED DURING THE  
TIMBER HARVESTING PLAN EVALUATION PROCESS

THP NUMBER: 1-22-00040-MEN

SUBMITTER: Mendocino Redwood Company, LLC

COUNTY: Mendocino

END OF PUBLIC COMMENT PERIOD: June 20, 2022

DATE OF OFFICIAL RESPONSE/DATE OF APPROVAL: June 24, 2022

The California Department of Forestry and Fire Protection has prepared the following response to significant environmental points raised during the evaluation of the above-referenced plan. Comments made on like topics were grouped together and addressed in a single response. Where a comment raised a unique topic, a separate response is made. Remarks concerning the validity of the review process for timber operations, questions of law, or topics or concerns so remote or speculative that they could not be reasonably assessed or related to the outcome of a timber operation, have not been addressed.

Sincerely,

DocuSigned by:

AE5E25725914422...

Adam Deem, RPF #2759

Forester II

Review Team Chair

cc: Unit Chief  
RPF  
Plan Submitter  
Dept. of Fish & Wildlife, Reg. 1  
Water Quality, Reg. 1  
Public Comment Writers

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# Summary of Review Process

## Common Forest Practice Abbreviations

AB 32	Assembly Bill 32	PCA	Pest Control Advisor
ARB	Air Resources Board	Pg	Petagram = $10^{15}$ grams
BOF	Board of Forestry	PHI	Pre-Harvest Inspection
CAA	Confidential Archaeological Addendum	PNW	Pacific NorthWest
CAL FIRE	Department of Forestry & Fire Protection	PRC	Public Resources Code
CAPCOA	Calif. Air Pollution Control Officers Assoc.	RPA	Resource Plan. and Assess.
CCR	Calif. Code of Regulations	RPF	Registered Professional Forester
CDFW/DFW	California Dept. of Fish & Wildlife	[S/C]	Word used verbatim as originally printed in another document
CEQA	California Environmental Quality Act	SPI	Sierra Pacific Industries
CESA	California Endangered Species Act	SYP	Sustained Yield Plan
CGS	California Geological Survey	tC	tonnes of carbon
CIA	Cumulative Impacts Assessment	Tg	Tetragram = $10^{12}$ grams
CO <sub>2</sub>	Carbon Dioxide	THP	Timber Harvest Plan
CO <sub>2</sub> e	Carbon Dioxide equivalent	TPZ	Timber Production Zone
CSO	California Spotted Owl	USFS	United States Forest Service
DBH/dbh	Diameter Breast Height	USFWS	U.S. Fish & Wildlife Service
DPR	Department of Pesticide Regulation	WAA	Watershed Assessment Area
EPA	Environmental Protection Agency	WLPZ	Watercourse. & Lake Prot. Zone
FPA	Forest Practice Act	WQ	California Regional Water Quality Control Board
FPR	Forest Practice Rules	yr <sup>-1</sup>	per year
GHG	Greenhouse Gas		
ha <sup>-1</sup>	per hectare		
LBM	Live Tree Biomass		
LTO	Licensed Timber Operator		
LTSY	Long Term Sustained Yield		
m <sup>-2</sup>	per square meter		
MAI	Mean Annual Increment		
MMBF	Million Board Feet		
MMTCO <sub>2</sub> E	Million Metric Tons CO <sub>2</sub> equivalent		
NEP	Net Ecosystem Production		
NEPA	National Environ. Policy Act		
NMFS	National Marine Fisheries Service		
NPP	Net Primary Production		
NSO	Northern Spotted Owl		
NTMP	NonIndust. Timb. Manag. Plan		
OPR	Govm's Office of Plan. & Res.		

## Notification Process

In order to notify the public of the proposed timber harvesting, and to ascertain whether there are any concerns with the plan, the following actions are automatically taken on each THP submitted to CAL FIRE:

- Notice of the timber operation is sent to all adjacent landowners if the boundary is within 300 feet of the proposed harvesting, (As per 14 CCR § 1032.7(e))
- Notice of the Plan is submitted to the county clerk for posting with the other environmental notices. (14 CCR § 1032.8(a))
- Notice of the plan is posted at the Department's local office and in Cascade Area office in Redding. (14 CCR § 1032))
- Notice is posted with the Secretary for Resources in Sacramento. (14 CCR § 1032.8(c))
- Notice of the THP is sent to those organizations and individuals on the Department's current list for notification of the plans in the county. (14 CCR § 1032.9(b))
- A notice of the proposed timber operation is posted at a conspicuous location on the public road nearest the plan site. (14 CCR § 1032.7(g))

## Plan Review Process

The laws and regulations that govern the timber harvesting plan (THP) review process are found in Statute law in the form of the Forest Practice Act which is contained in the Public Resources Code (PRC), and Administrative law in the rules of the Board of Forestry (rules) which are contained in the California Code of Regulations (CCR).

The rules are lengthy in scope and detail and provide explicit instructions for permissible and prohibited actions that govern the conduct of timber operations in the field. The major categories covered by the rules include:

- \*THP contents and the THP review process
- \*Silvicultural methods
- \*Harvesting practices and erosion control
- \*Site preparation
- \*Watercourse and Lake Protection
- \*Hazard Reduction
- \*Fire Protection
- \*Forest insect and disease protection practices
- \*Logging roads and landing

When a THP is submitted to the California Department of Forestry and Fire Protection (CAL FIRE) a multidisciplinary review team conducts the first review team meeting to assess the THP. The review team normally consists of, but is not necessarily limited to, representatives of CAL FIRE, the Department of Fish and Game (DFW), and the Regional Water Quality Control Board (WQ). The California Geological Survey (CGS) also reviews THP's for indications of potential slope instability. The purpose of the first review team meeting is to assess the logging plan and determine on a preliminary basis whether it conforms to the rules of the Board of Forestry. Additionally, questions are formulated which are to be answered by a field inspection team.

Next, a preharvest inspection (PHI) is normally conducted to examine the THP area and the logging plan. All review team members may attend, as well as other experts and agency personnel whom CAL FIRE may request. As a result of the PHI, additional recommendations may be formulated to provide greater environmental protection.

After a PHI, a second review team meeting is conducted to examine the field inspection reports and to finalize any additional recommendations or changes in the THP. The review team transmits these recommendations to the RPF, who must respond to each one. The director's representative considers public comment, the adequacy of the registered professional forester's (RPF's) response, and the recommendations of the review team chair before reaching a decision to approve or deny a THP. If a THP is approved, logging may commence. The THP is valid for up to five years, and may be extended under special circumstances for a maximum of 2 years more for a total of 7 years.

Before commencing operations, the plan submitter must notify CAL FIRE. During operations, CAL FIRE periodically inspects the logging area for THP and rule compliance. The number of the inspections will depend upon the plan size, duration, complexity, regeneration method, and the potential for impacts. The contents of the THP and the rules provide the criteria CAL FIRE inspectors use to determine compliance. While CAL FIRE cannot guarantee that a violation will not occur, it is CAL FIRE's policy to pursue vigorously the prompt and positive enforcement of the Forest Practice Act, the forest practice rules, related laws and regulations, and environmental protection measures applying to timber operations on the timberlands of the State. This enforcement policy is directed primarily at preventing and deterring forest practice violations, and secondarily at prompt and appropriate correction of violations when they occur.

The general means of enforcement of the Forest Practice Act, forest practice rules, and the other related regulations range from the use of violation notices which may require corrective actions, to criminal proceedings through the court system. Civil, administrative civil penalty, Timber operator licensing, and RPF licensing actions can also be taken.

THP review and assessment is based on the assumption that there will be no violations that will adversely affect water quality or watershed values significantly. Most forest practice violations are correctable and CAL FIRE's enforcement program seeks to assure correction. Where non-correctable violations occur, civil or criminal action may be taken against the offender. Depending on the outcome of the case and the court in which the case is heard, some sort of supplemental environmental corrective work may be required. This is intended to offset non-correctable adverse impacts. Once a THP is completed, a completion report must be submitted certifying that the area meets the requirements of the rules. CAL FIRE inspects the completed area to verify that all the rules have been followed including erosion control work.

Depending on the silvicultural system used, the stocking standards of the rules must be met immediately or in certain cases within five years. A stocking report must be filed to certify that the requirements have been met. If the stocking standards have not been met, the area must be planted annually until it is restored. If the landowner fails to restock the land, CAL FIRE may hire a contractor to complete the work and seek recovery of the cost from the landowner.

## General Discussion and Background

The following summary is provided for some of the over-arching concerns expressed in public comment. Specific issues raised within comments will be addressed in the next section.

### CEQA Analysis

A CEQA analysis is not required to be perfect, but it must be accurate and adequately describe the proposed project in a manner that allows for informed decision-making. It must include an assessment of impacts based upon information that was “reasonably available before submission of the plan.” (Technical Rule Addendum #2)

CEQA clearly establishes that the Lead Agency has a duty to minimize harm to the environment while balancing Competing Public Objectives (14 CCR §15021)<sup>1</sup>. These duties are further refined in the Z'berg-Nejedly Forest Practice Act (PRC §4512(c)<sup>2</sup>) and PRC §4513(b)<sup>3</sup> for how the mandate to provide “maximum sustained production of high quality timber products” is to be balanced with other environmental considerations. The term “while giving consideration to” is further defined in 14 CCR §895.1 as follows:

*While Giving Consideration means the selection of those feasible silvicultural systems, operating methods and procedures which substantially lessen significant adverse Impact on the environment and which best achieve long-term, maximum sustained production of forest products, while protecting soil, air, fish and wildlife, and water resources from unreasonable degradation, and which evaluate and make allowance for values relating to*

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<sup>1</sup> Duty to Minimize Environmental Damage and Balance Competing Public Objectives

CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.

- (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
- (2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
- (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
- (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
- (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Public Resources Code Sections 21000, 21001, 21002, 21002.1, and 21081; San Francisco Ecology Center v. City and County of San Francisco, (1975) 48 Cal. App. 3d 584; Laurel Hills Homeowners Association v. City Council, (1978) 83 Cal. App. 3d 515.

Discussion: Section 15021 brings together the many separate elements that apply to the duty to minimize environmental damage. These duties appear in the policy sections of CEQA, in the findings requirement in Section 21081, and in a number of court decisions that have built up a body of case law that is not immediately reflected in the statutory language. This section is also necessary to provide one place to explain how the ultimate balancing of the merits of the project relates to the search for feasible alternatives or mitigation measures to avoid or reduce the environmental damage.

The placement of this section early in the article on general responsibilities helps highlight this duty to prevent environmental damage. This section is an effort to provide a careful statement of the duty with its limitations and its relationship to other essential public goals.

<sup>2</sup> (c) The Legislature thus declares that it is the policy of this state to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to the public's need for watershed protection, fisheries and wildlife, sequestration of carbon dioxide, and recreational opportunities alike in this and future generations.

<sup>3</sup> (b) The goal of maximum sustained production of high-quality timber products is achieved while giving consideration to values relating to sequestration of carbon dioxide, recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment.

*range and forage resources, recreation and aesthetics, and regional economic vitality and employment.*

What is missing from the Act, Rules or CEQA Guidelines is the weight that is to be applied to the evaluation of the other resources specified. Clearly, there are certain legal restrictions on the degradation of specific values (e.g. water quality standards) but many of the elements that must be considered have a qualitative, not quantitative mandate for evaluation. This allows the Plan Submitter and the Lead Agency to exercise "professional judgement"<sup>4</sup> when preparing and evaluating plans.

CAL FIRE has an obligation to explain the rationale for approving a plan. This is often done in the presence of contradicting information and results in different parties being displeased with the results. A competent CEQA analysis is not required to make the "best" choice, but the choice made must be supported by information contained within the record. This is where Lead Agency discretion comes into play. CAL FIRE ultimately bears the responsibility for making a decision and, when presented with public comments, is expected to provide an answer to significant questions raised.

Another expressed concern is over the extent to which the plan, and by extension CAL FIRE, discusses effects that are not deemed to be significant. CEQA provides guidance on how to address impacts within 14 CCR §15130:

*15130. DISCUSSION OF CUMULATIVE IMPACTS*

- (a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065 (a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.*
- (1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.*
- (2) When the combined cumulative impact associated with the project's incremental effect and the*

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<sup>4</sup> 14CCR §897(d) Due to the variety of individual circumstances of timber harvesting in California and the subsequent inability to adopt site-specific standards and regulations, these Rules use judgmental terms in describing the standards that will apply in certain situations. By necessity, the RPF shall exercise professional judgment in applying these judgmental terms and in determining which of a range of feasible (see definition 14 CCR 895.1) silvicultural systems, operating methods and procedures contained in the Rules shall be proposed in the plan to substantially lessen significant adverse impacts in the environment from timber harvesting. The Director also shall exercise professional judgment in applying these judgmental terms in determining whether a particular plan complies with the Rules adopted by the Board and, accordingly, whether he or she should approve or disapprove a plan. The Director shall use these Rules to identify the nature he limits to the professional judgment to be exercised by him or her in administering these Rules.

*effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.*

- (3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.*
- (b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:*
  - (1) Either:*
    - (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or*
    - (B) A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional*



modeling program. Any such document shall be referenced and made available to the public at a location specified by the lead agency.

- (2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.
  - (3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.
  - (4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and
  - (5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.
- (c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.
- (d) Previously approved land use documents, including, but not limited to, general plans, specific plans, regional transportation plans, plans for the reduction of greenhouse gas emissions, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

- (e) *If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).*

*Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21003(d), 21083(b), 21093, 21094 and 21100, Public Resources Code; Whitman v. Board of Supervisors, (1979) 88 Cal. App. 3d 397; San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692; Laurel Heights Homeowners Association v. Regents of the University of California (1988) 47 Cal.3d 376; Sierra Club v. Gilroy (1990) 220 Cal.App.3d 30; Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421; Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch. Dist. (1994) 24 Cal.App.4th 826; Las Virgenes Homeowners Fed'n v. County of Los Angeles (1986) 177 Cal.App.3d 300; San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus (1994) 27 Cal.App.4th 713; Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services (1995) 38 Cal.App.4th 1574; Santa Monica Chamber of Commerce v. City of Santa Monica (2002) 101 Cal.App.4th 786; Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98; and Ass'n of Irrigated Residents v. County of Madera (2003) 107 Cal.App.4th 1383.*

When an analysis has determined that the impacts are less than significant, a detailed discussion is not required and an abbreviated explanation is acceptable.

## **What is (and is not) Answered in an Official Response**

In its simplest form, the Official Response (OR) is an apologia, which is latin for "speaking in defense." This involves CAL FIRE providing an explanation for why the plan was approved within the context of the comments received. Usually, this is why the plan was approved over comments that it should be denied or modified. The OR is limited to only substantial

environmental concerns (PRC §21080.5(d)(2)(D)<sup>5</sup>, 14 CCR §1037.8<sup>6</sup>, §1090.22<sup>7</sup>, §1094.21<sup>7</sup>) and does not address issues that are outside of CAL FIRE jurisdiction, involve points of law, or policy.

## **Public Comment**

Public comment for this plan came in the form of a single email. The text of each concern is included below along with the appropriate response.

### **Concern #1: (Timber Harvest Plan Needs to be Revised and Additional Time Allowed for Comment)**

Pursuant to 14 CCR 897 (b)(3), "...The information in proposed plans shall be sufficiently clear and detailed to permit adequate and effective review by responsible agencies and input by the public..."

Pages that are revised after the initial submission of the plan need to be incorporated into the proper plan sections, rather than left throughout the CalTrees record as scattered attachments, such that a clear and complete plan is assembled. After completion, sufficient time should then be allowed for its review.

In the Bear Cub plan, after the submission of a complete document on April 13th, new pages were added on May 5th (308 pages, including 266 regarding the northern spotted owl), on June 3rd (45 new pages, including 17 regarding the owl), and on June 9th, 16 new pages.

None of these new pages, as noted above, was incorporated into the THP itself. Thus, any given page might be in one of four locations. The reviewer is left, not only to jump back and forth between these added new documents and the THP itself, but then to move from section to section within the THP to make sure that other related changes - made in one section that necessitate a change in the same section or another section - have been made. This is not always the case and the plan then becomes both a moving target and internally inconsistent. It makes review more tedious and time-intensive.

Isn't there some way for the RPF or CalTrees to incorporate new pages so that the plan is clear and complete - in one place?

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<sup>5</sup> (d) To qualify for certification pursuant to this section, a regulatory program shall require the utilization of an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decision making and that shall meet all of the following criteria:... 2) The rules and regulations adopted by the administering agency for the regulatory program do all of the following: ... (D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

<sup>6</sup> At the time the Director notifies the plan submitter that the plan has been found in conformance, as described in 14 CCR 1037.7, the Director shall transmit a notice thereof to the agencies and persons referred to in 14 CCR 1037.3, and for posting at the places named in 14 CCR 1037.1. A copy of the notice shall be filed with the Secretary for Resources. The notice of conformance shall include a written response of the Director to significant environmental issues raised during the evaluation process.

<sup>7</sup> §1090.22 and §1094.21 contain the same language related to the Official Response as §1037.8

Because of Newly Revised Pages, Information within Sections II, and between Sections II and III of the Plan is not Consistent. And some is Questionable: should it have been changed?

## **Response #1:**

The comment writer makes a valid point that the way plans are revised during review could cause confusion. Even so, it is noted that the comment writer did find and determine what changes were made sufficient to provide comment.

There are no rules or regulations specifying how revisions to the plan are to be organized or provided for public input. The process of posting revisions to CalTrees is the same as that which was used to post revisions to the FTP site and prior to that how the revisions were organized at Cal Fire headquarters offices. This is not to say that there is no better way to do it, only that this is how it was done up to this time. These comments have resulted in internal discussions about how we can make documents more easily accessible to the public so that they may be informed as to the final state of the plan prior to the end of the public comment period, but nothing has been resolved to date.

## **Concern #2: (Inconsistencies and/or Typos in Plan)**

Variable Retention Units (VR)

If one compares pages the three pages, 10 and 11 of Section II, and page 122 of Section III, one finds numerous discrepancies between the pages in unit sizes and aggregate retention acres, some of which seem to be simple mistakes in calculating retention acres.

For example, Unit 1 is shown on page 122 as having 15 acres of aggregate retention but on pages 10 and 11 as having 9 acres of dispersed retention. There are similar discrepancies between VR units 2, 5 and 6. All of the above need to be reconciled.

Changes in THP acreages for both Selection and Variable Retention should be Reflected in other Areas of the Plan

Selection acreage of the plan went from 144 acres to 133; Variable Retention acres changed from 542 to 529.

These changes were not reflected in the chart of "Age, Volume, Growth and Stocking, Pre- and Post-Harvest" (Section III, page 117) that is intended to satisfy the requirements of 14 CCR 1034(m)(1). The 24-acre change should be reflected in this chart.

In addition, pages 124-130 of Section III that detail pre- and post-harvest basal area and species composition for the individual VR units, need modification, especially for units 5

Conclusion

While individually these changes may seem relatively minor, they call into question both the accuracy of the THP record and whether the changes have been reflected on the ground so as not to cause potential adverse impacts, particularly to the northern spotted owl.

## **Response #2:**

The noted typos were the result of changes made during plan review that resulted in fewer acres proposed for Variable Retention from 542 to 529 acres. The RPF revised these typos prior to plan approval.

## **Concern #3: (Harvesting in WLPZ Impacts)**

Selection Silviculture that Impacts the WLPZ (Watercourse and Lake Protection Zone)

Because the downstream watercourse, South Fork Eel, is 303(d) listed by the EPA for sedimentation and temperature, and as it is an especially important watershed because it contains listed anadromous salmonids, it is critical that the plan fully document and account for adverse sediment and temperature effects caused by logging within the WLPZ.

The following is copied from Mendocino Redwood Company's 2017 Forest Management Plan, p. 47:

### **"Streamside Protections**

Another method of protecting key aquatic habitat elements is to limit management activities within the watercourse protection zone (See policies on following page). Silviculture activities in these zones are generally restricted to High Retention Selection. A practical result of MRC's restrictive streamside policies is that MRC will delay harvest in most stream zones for the next 10 years."

Let's see how that policy of protection is implemented on the Bear Cub THP.

The THP proposes 133 acres of selection harvest, Section II, page 9. Much of this harvest will occur in WLPZ's of Class I, Class II-S and Class III streams.

Thus, only four years after the adoption of those policies, the Bear Cub timber plan is proposing to harvest within the WLPZs - about 3 miles of Class I (fish-bearing) stream length (calculated from the silviculture maps on pages 94-98 of Section II). There are additional miles of cutting in the Class II-S and Class III streams, all just outside the 30 foot core zone.

When we turn to the silviculture maps, Section II, pages 94-98, we find that these acres are within the WLPZs in Units 1 through 7 of the plan, excepting Unit 4. Specifically, the THP proposes selection logging in the 'Class 1 Inner Zone' from 30' to 100' from a Class 1 Watercourse. The same is proposed for Class I-S watercourses. A rough measurement from the THP silviculture maps (pp 94-98) shows approximately 3 miles of Class I riparian zones will be entered. That is a lot of disturbance to a sensitive area.

Unfortunately, we are not given any data in the plan for the WLPZs, such as pre- and post-harvest board foot volumes or basal areas by size class, so we are unable to determine to what extent the most volume and larger size class of trees - those most valuable to wildlife - will be taken from the stream zones. Instead, this data is mixed with, and inseparable from, the upslope silviculture data.

Nor can we find the stream temperature data needed to evaluate compliance with the North Coast Region Basin Plan, pursuant to 14CCR898.2(h).

Please see Section V of the plan for stream temperature information. Temperature monitoring figures are given on pp 300-310. This information is all but useless. It is dated and limited. Of the approximately 400 temperature readings that are shown in the table only two sites are listed that apply to the Bear Cub THP. There is a single reading taken on a tributary to Waldron Creek in 2001, and several taken on Little Bear Wallow Creek, the latest being 10 years ago. Old information and not much of it, hardly a baseline for measuring trends in temperatures in these watercourses.

We also find fish and amphibian distribution information in Section V. See page 312 for amphibian surveys. These are also dated, done in 2006, but do show red-legged frogs, rough-skinned newts, coastal giant salamanders, as well as reptiles, and, most importantly, coho salmon and steelhead. The fish surveys that follow these, pp 320-324, show coho salmon in Waldron Creek as recently as 2016. Most of the surveys are sparse and date back to the 1990's and early 2000's, so their usefulness is also limited.

We can turn to Mendocino Redwood Company's Option A - dated 2008 - to find the trigger conditions necessary to harvest within WLPZs. On page 30 of Attachment A is a table entitled "Silviculture Regimes for Stands of Special Concerns." There, a stand is defined as "(a discrete geographic unit 30 acres or less) [that is] the spatial basis for determining if the forest unit meets the trigger conditions for the Selection, Group Selection, or Alternative Group Selection silvicultures." For selection harvesting in Class 1 WLPZs, the table states that the necessary trigger for the selection harvest is a total conifer basal area of >260 square feet for both trees greater than and less than 16 inches diameter. The plan has not shown that

the stands it intends to harvest within Class 1 WLPZs meet these criteria. This is evidenced by the fact that the THP does not provide the necessary stand description for the WLPZ portion of the selection areas.

This Option A trigger is clearly meant by MRC to convey a high level of protection to the stream zones. It would then seem to be irresponsible to approve a timber plan that proposes harvest in those areas without first requiring that the stands meet the trigger requirements of the Option A – within each stand. To not first demonstrate stand density in each of these areas would put MRC in violation of their Option A – as well as the Forest Practice Rules.

One of the reasons that timber harvests within the WLPZ are discouraged is that removing shade over watercourses can raise stream temperatures to an extent that is harmful to aquatic life. This is particularly important in Northern California's Anadromous Salmonid Protection (ASP) watersheds, home to California's endangered salmonid species. And it's doubly important in watersheds that are listed as 303(d) temperature impaired. The current THP has not presented any data or reasoning to justify why harvesting within the WLPZ now will not result in significant environmental harm. The THP has failed to adequately address or measure the impacts of this harvest. For example, the THP does not contain adequate analysis of stream temperature [See above.] or current wildlife values for aquatic species. [See above.] Without this information, the THP can not accurately state that the harvest will not have a negative impact on these factors of water quality. Given the sensitive nature of water quality and aquatic habitat, it is not reasonable for MRC to move forward without this information.

### **Response #3:**

The concern notes the importance of accounting for impacts to downstream resources from timber harvesting and CAL FIRE agrees. The protection of watercourses and the beneficial uses of water are the cornerstone upon which most of the Rules are built against.

As to the concern over the MRC Management plan, this document is non-regulatory and CAL FIRE does not have the authority to require management in proposed plans to be in conformance with this plan. The landowner is restricted in their management decisions by the applicable Forest Practice Rules and the operations described in their Option "a" document. As to the concerns over the suitability of the proposed selection operations in the WLPZ, the CAL FIRE inspector notes in their report that the stands in the THP are accurately described and that the proposed silviculture is appropriate.

The comment also notes a lack of stream temperature data necessary to demonstrate compliance with the North Coast Region Basin Plan, but this information is not required to be in the plan, nor did Water Quality determine such information necessary as a condition of plan approval.

The comment writer also takes issue with the availability of data on biological resources, including references that they describe as “old” yet provide no evidence that newer or more relevant information was available but not considered. If such information was provided to CAL FIRE during review, the plan submitter would likely be required to consider it.

As to the concern specific to pre-harvest triggers for harvesting specified in the Option “a”, CAL FIRE notes that stands can be harvested that do not meet these triggers without necessarily being out of conformance with the Option “a”. There are site specific circumstances when these pre-harvest triggers may not be the best indication that harvesting should occur. CAL FIRE looks for significant deviations between the Option “a” demonstration of MSP and implementation on a THP before raising concerns about conformance. As specified above, the CAL FIRE inspector noted that the stands were appropriate for the proposed silviculture.

The concern also states that the plan has not provided any evidence that significant adverse effects will not occur. CAL FIRE obviously disagrees with this position and also notes that the comment writer has provided no evidence to doubt the conclusions in the THP itself. As a result, CAL FIRE has determined that the plan as approved will not result in a significant adverse effect on the beneficial uses of water.

## SUMMARY AND CONCLUSIONS

**The Department recognizes its responsibility** under the Forest Practice Act (FPA) and CEQA to determine whether environmental impacts will be significant and adverse. In the case of the management regime which is part of the THP, significant adverse impacts associated with the proposed application are not anticipated.

**CAL FIRE has reviewed the potential impacts from the harvest and reviewed concerns** from the public and finds that there will be no expected significant adverse environmental impacts from timber harvesting as described in the Official Response above. Mitigation measures contained in the plan and in the Forest Practice Rules adequately address potential significant adverse environmental effects.

**CAL FIRE has considered all pertinent evidence and has determined that no significant** adverse cumulative impacts are likely to result from implementing this THP. Pertinent evidence includes, but is not limited to the assessment done by the plan submitter in the watershed and biological assessment area and the knowledge that CAL FIRE has regarding activities that have occurred in the assessment area and surrounding areas where activities could potentially combine to create a significant cumulative impact. This determination is based on the framework provided by the FPA, CCR’s, and additional mitigation measures specific to this THP.

**CAL FIRE has supplemented the information contained in this THP in conformance** with Title 14 CCR § 898, by considering and making known the data and reports which have been



submitted from other agencies that reviewed the plan; by considering pertinent information from other timber harvesting documents including THP's, emergency notices, exemption notices, management plans, etc. and including project review documents from other non-CAL FIRE state, local and federal agencies where appropriate; by considering information from aerial photos and GIS databases and by considering information from the CAL FIRE maintained timber harvesting database; by technical knowledge of unit foresters who have reviewed numerous other timber harvesting operations; by reviewing technical publications and participating in research gathering efforts, and participating in training related to the effects of timber harvesting on forest values; by considering and making available to the RPF who prepares THP's, information submitted by the public.

**CAL FIRE further finds that all pertinent issues and substantial questions raised** by the public and submitted in writing are addressed in this Official Response. Copies of this response are mailed to those who submitted comments in writing with a return address.

**ALL CONCERNS RAISED WERE REVIEWED AND ADDRESSED. ALONG WITH THE FRAMEWORK PROVIDED BY THE FOREST PRACTICE ACT AND THE RULES OF THE BOARD OF FORESTRY, AND THE ADDITION OF THE MITIGATION MEASURES SPECIFIC TO THIS THP, THE DEPARTMENT HAS DETERMINED THAT THERE WILL BE NO SIGNIFICANT ADVERSE IMPACTS RESULTING FROM THE IMPLEMENTATION OF THIS THP.**